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SUBJECT: UGANDA: ANTI-CORRUPTION COURT SUCCESSFULLY TRIES TWO GLOBAL  
FUND CASES

11. Summary: The investigations into the theft of money from the Global Fund for HIV/AIDS, Malaria, and Tuberculosis (the Global Fund) have taken years to produce results, but the recent convictions of two suspects have demonstrated the potential of Uganda's newly established Anti-Corruption Division (ACD) of the High Court. A third trial commenced on April 27. While the trials involve relatively low-level Global Fund scandal perpetrators, the two convictions could serve as a deterrent to other officials from pillaging donor funds. The government plans to initiate additional prosecutions in the future, but it is not clear whether higher level officials will ever face trial. End Summary.

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GLOBAL FUND SCANDAL BACKGROUND  
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12. The recent trials are not only the first cases to be tried in the ACD, but also the first prosecutions resulting from the 2005 Global Fund scandal investigation. In 2005, Uganda had received \$47 million in Global Fund money at the time it was discovered that approximately \$1.5 million had gone missing. The funds for fighting HIV/AIDS, Malaria, and Tuberculosis were allegedly diverted to fund ruling party activities in support of a Constitutional referendum to eliminate term limits for President, and for other political activities. The funds were given to non-governmental organizations (NGOs), many of which existed only on paper, to hold "sensitization" programs for the public to raise awareness about the diseases.

13. In reality, many of these NGOs were backed by ruling party members or associates. In 2006, the Global Fund suspended its funding to Uganda due to the scandal. President Museveni named a Commission of Inquiry led by Justice James Ogoola, who conducted a ten-month investigation into the scandal. Justice Ogoola's report concluded that it had collected enough evidence to immediately prosecute a significant number of cases, and with a little bit more investigation, could prosecute the great majority of institutions and individuals implicated in the report, including the former Minister and Ministers of State for Health Jim Muhwezi, Mike Mukula, and Alex Kamugisha.

14. Ogoola's report was challenged by the Cabinet, which produced a white paper protecting ministers from prosecution on the technical legal grounds that the Permanent Secretary in each Ministry, and not the Minister, has the authority to approve disbursements of funds. Dissatisfied and under pressure from donors, the Global Fund appointed an Inspector General to carry out his own investigation, urge the Government to hold officials accountable for the disappearance of funds, and ensure that long-term institutional arrangements were put in place to protect future disbursements. Under the threat of continued suspension of funds, and nearly two years after Justice Ogoola issued his report, the Government directed the police and prosecutors to carry out investigations and prosecutions. It also developed a work plan to strengthen the accountability systems to better protect health funds from diversion and to prosecute those who misused the funds. The Global Fund remains suspended, but its Inspector General will report to the

board in May on the "safety" of the Long Term Institutional Agreements put in place to protect donor funds.

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TRIALS BEGIN  
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¶5. The Anti-Corruption Division's first success came in the trial of Fred Kavuma, former production manager of Uganda Television. He received the maximum sentence of five years imprisonment for forgery, uttering false documents, and obtaining \$19,339 from the Global Fund on March 13. Kavuma also was ordered to refund the money. Kavuma was charged with 14 offenses (forgery, uttering false documents, obtaining money by false pretence, abuse of office, impersonation, and fraudulent and false accounting) related to a \$21,650 Global Fund fraud. According to the prosecution, Kavuma secured the Global Funds claiming he would organize sensitization programs on HIV/AIDS through Uganda Television. Kavuma applied for Global Funds using Lijac Promotional Services stationary without the knowledge and consent of the proprietor, Lillian Nabunnya and then diverted the money.

¶6. When Kavuma's application for funding was approved, Kavuma advised Nabunnya that he had used her company's name to obtain the funding. Nabunnya consulted counsel and an agreement was reached that she would bear no responsibility for the acceptance, use, and accounting of the money. However, Kavuma continued to use the Lijac Promotional Services' name and letterhead to submit false receipts and accountings. The prosecution opened the case with Nabunnya's testimony to show that the conduct of the accused was a fraud from the outset.

KAMPALA 00000444 002 OF 002

¶7. On April 8, the ACD convicted and sentenced Teddy Seezi Cheeye, the Director of Economic Monitoring in the Internal Security Organization (ISO) to a total of ten years of imprisonment. The head of the ACD, Justice John Bosco Katutsi, found Cheeye guilty of embezzling \$56,603 in Global Fund money meant for HIV/AIDS, malaria and tuberculosis control. Cheeye was also found guilty of nine counts of making false account entries, six counts of forgery and eight counts of uttering false documents. He was ordered to refund the \$56,603 to the Global Fund.

¶8. The State Prosecutor proved that Cheeye was the sole director and signatory of the ironically-named "Center for Accountability", a local non-governmental organization. His wife was the secretary. He was sole operator of the company's account, where the money was deposited. Witnesses testified that Cheeye's company never carried out any of the activities it claimed to have performed in the districts of Kabale, Rakai, Mbarara, and Ntungamo. Cheeye received the money in February 2005, and he was supposed to disseminate information about HIV/AIDS and to support and strengthen condom use.

¶9. Cheeye and Kavuma are the first two people to be convicted over the Global Fund monies. Though Cheeye is a relatively small fish in the Global Fund saga (compared to former Health Ministers Jim Muhwezi, Mike Mukula, and Alex Kamugisha), his case attracted significant media attention and represented the highest profile prosecution to date. The irony of Cheeye's case was not lost on Ugandans. He professed to be an anti-corruption crusader. He rose to prominence in the early 1990s as the editor of the defunct Uganda Confidential, a newsletter that specialized in exposing financial scandals in government.

¶10. A third trial related to Global Fund abuses commenced on April 127. Analiza Mondon and Elizabeth Ngororano were former directors of Valued Health. The two women are charged with 53 counts of embezzlement, making false entry, and uttering false documents. As directors of Valued Health, the accused were awarded \$22,750 in a Uganda Global Fund to Fight AIDS, Tuberculosis, Malaria Project (UGFATMP) contract to train service providers on how to deliver youth friendly services in line with Global Fund objectives. The accused claimed to have arranged workshops and incurred vehicle hire and fuel expenses in support of their Global Fund activities.

According to trial testimony, the workshops never took place and no Global Fund-related activities were undertaken.

¶11. The Directorate of Public Prosecutions reports it will initiate several more criminal cases against others who pilfered Global Funds in the coming months. We have no indication that former health ministers will be prosecuted, even though the Criminal Investigative Division has opened cases on them.

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GOVERNMENT COMMITMENT STILL WEAK  
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¶12. These proceedings are the first trials in the ACD, which was established in 2008 to fulfill part of the Government of Uganda's (GOU) commitment under the Millennium Challenge Corporation (MCC) Threshold Country Plan. The GOU provided \$500,000 to support the ACD, but in a tacit acknowledgment that this is not nearly enough, it is also seeking over \$12 million in donor funding to operate the ACD over the next four years. It appears significant donor funding will help plug this gap. While this is welcome, it also effectively lets the GOU off the hook. Overall, it has met less than half of its financial commitments to the MCC program to provide increased financial support to the government institutions charged with fighting corruption.

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COMMENT  
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¶13. Many Ugandans see these court verdicts as important milestones in the fight against corruption. However, transparency activists are concerned about selective prosecution. They point out that some government officials, including better-connected senior officials who may have committed worse crimes in the Global Fund scandal, have not been punished, and probably won't be. Many Ugandans want the precedent to apply to other public officers who misuse public funds for personal gain.  
HOOVER